

**Brownstein | Hyatt
Farber | Schreck**

Brownstein Hyatt Farber Schreck, LLP
1350 I Street, NW, Suite 510
Washington, D.C. 20005-3355
T 202.296.7353 F 202.296.7009

Fax Cover Sheet

DATE: September 4, 2009

	PHONE NO.	FAX NO.
TO: FARA Registration Unit		202-514-2836
FROM: William Moschella		
RE: Informational Materials distributed by Brownstein Hyatt Farber Schreck, LLP (#5870) on behalf of Embassy of Mexico		

No. of Pages With Cover Page: 04

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Message:

Attn. FARA Registration Unit

Please find attached three pages of Information Material distributed by BHFS, LLP (#5870) on behalf of Embassy of Mexico. If you do not receive three pages of Information Material and the cover sheet, please give Theodosia Sorto a call at 202-652-2340.

Thank you,


William Moschella

2009 SEP -4 PM 1:15
CRM/CES/REGISTRATION UNIT

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Dear Governor Perry:

We are writing to request the assistance of the State of Texas in carrying out an international legal obligation of the United States. Put simply, the United States seeks the help of the State of Texas.

The international legal obligation at issue concerns the claims of certain Mexican nationals in Texas and several other states under the Vienna Convention on Consular Relations, which among other things requires the United States, upon request, to notify Mexico of the arrest of one of its nationals. These claims were addressed in the International Court of Justice's *Avena* decision, and the U.S. Supreme Court's recent decision in *Medellin v. Texas*.

The United States attaches great importance to complying with its obligations under international law. To that end, the President sought to discharge the international obligation of the United States by having state courts address the Vienna Convention claims of the Mexican nationals at issue. The Supreme Court determined in *Medellin* that the Executive Branch could not direct state courts to provide such relief as a matter of domestic law. In so ruling, however, the Court recognized, as Texas has, that the *Avena* judgment continues to bind the United States as a matter of international law. Of course, after the *Avena* judgment, the United States withdrew from the jurisdiction of the International Court of Justice with respect to matters arising under the Vienna Convention.

The United States has held intensive discussions with the Government of Mexico after the Supreme Court's decision. On June 5 Mexico nonetheless

The Honorable
Rick Perry,
Governor of Texas,
P.O. Box 12428,
Austin, Texas 78711-2428.

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Congressional action is needed to ensure the safety of Americans abroad and to protect the international reputation of the United States

Why is congressional action needed?

The Vienna Convention on Consular Relations, a treaty ratified by the United States and thus part of U.S. law, ensures the rights of foreign nationals to have access to consular assistance without delay and of consulates to assist their citizens abroad. The United States is currently in violation of its international treaty obligations in the cases of certain Mexican nationals. The International Court of Justice (ICJ) -- which the United States designated as the court with jurisdiction to resolve international disputes regarding the Vienna Convention -- has determined that the United States can remedy these violations by granting judicial hearings to determine whether prejudice resulted from the failure to provide consular access to the Mexican nationals named in the Avena case. In the U.S. Supreme Court's recent decision in *Medellin v. Texas*, the Court agreed unanimously with the Bush Administration that complying with the ICJ judgment is an international legal obligation of the United States. The Court then determined that Congress can act to implement this binding legal obligation across the United States.

What would the proposed legislation do?

The proposed legislation would bring the United States into compliance with its international obligations by directing the federal courts to hold a review hearing in these cases to determine whether the defendants were prejudiced by their lack of consular access.

Congress must act without delay in order to fulfill the United States' treaty obligations and thus ensure the safety of Americans abroad, and to preserve the reputation of the United States as a reliable international partner that respects the rule of law.

The Bush Administration supports bringing the U.S. immediately into compliance with this treaty obligation. The consequences of non-compliance are potentially far-reaching: if the United States refuses to uphold its treaty obligations, other parties could invoke that non-compliance as justification for ignoring their obligations under the same treaty.

The security of Americans abroad is clearly and directly at risk. The Vienna Convention on Consular Relations is critical to the safety and security of Americans who travel, live and work in other countries around the world: missionaries, Peace Corps volunteers, tourists, business travelers, foreign exchange students, members of the military, U.S. diplomats, and countless others. Being detained by foreign authorities, especially in a country where one does not know the laws or language, can be extremely dangerous to Americans abroad. The United States thus insists that other countries grant Americans the right to consular access. For example, in 2001 when a U.S. Navy spy plane made an emergency landing in Chinese territory after colliding with a Chinese jet, the State Department cited the Vienna Convention in demanding consular visits to the plane's crew. Chinese authorities granted consular visits to the crew members, who were detained in China for 11 days. Throughout the tense standoff, State Department officials repeatedly cited the Convention as the basis for immediate and unobstructed access to the American citizens.

As a nation that believes in the rule of law, the United States must fulfill its undisputed treaty obligations in these cases. Failure to honor our universally-recognized treaty obligations will erode global confidence in the enforceability of the United States' international commitments across a broad range of subjects: foreign relations, international business dealings, trade and investment agreements, and other global affairs.

Congress should act promptly to adopt legislation implementing the limited remedies that will fulfill the nation's treaty obligations. The minor inconvenience to our federal courts of granting judicial review in the cases of a few dozen Mexican nationals pales in comparison to the threat to the security of American citizens abroad and the potential damage to our standing as a world leader that would result if the United States breaks its promise to live up to its international commitments.

These materials are distributed by Brownstein Hyatt Farber Schreck, LLP on behalf of the Embassy of Mexico. Additional information is on file with the Department of Justice, Washington, D.C.